THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8879 OF 2006

.08.2006

Between:

P.V.Apparao, S/o.Adiyya

… Petitioner

AND

The Joint Collector (Assignments),Visakhapatnam

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8879 OF 2006

ORDER:

The petitioner's father statedly was assigned Government poramboke land admeasuring Acs.5.00 in survey No.336/1A of Madhurawada Village in Visakhapatnam by an order dated 22.5.1982. He was an Ex-serviceman and he enjoyed the property by cultivating the same. During his lifetime, he sold some extent of the land to Smt.Sathyavathi and P.Rajendra Prasad Gupta on 01.11.2000. The petitioner alleges that though there was some objection by the Registration Department for registering the sale deed, having regard to the orders of the Government in G.O.Ms.No.1117, dated 11.11.1993, the sale deed was registered. When Pattadar passbook PPB was not issued, petitioner's father filed W.P.No.5811 of 2001 and this Court disposed of the said writ petition directing the Mandal Revenue Officer, Chinagadili Mandal (MRO), to consider the representation for issue of pattadar passbook PPB. By an order dated 25.7.2001, the claim of the father for PPB was rejected by the MRO on the ground that the land in survey No.336/1A was classified and registered as Hill Poramboke, that there was no subdivision of the land, that land is vacant and that the name of the petitioner's father is not found in the revenue records. Feeling aggrieved by the said order of the MRO dated 25.7.2001, the petitioner filed appeal before the Revenue Divisional Officer, Visakhapatnam (RDO), who dismissed the appeal by order dated 11.12.2002. The petitioner then filed a revision petition before the Joint Collector (Assignments), Visakhapatnam, first respondent herein. The same was also dismissed on 24.1.2005, aggrieved by which, the present writ petition is filed.

Though the Joint Collector dismissed the revision petition of the petitioner on 24.1.2005, this writ petition is filed on 25.4.2006, after lapse of more than one year. The writ affidavit did not contain any explanation for the delay and laches on the part of the petitioner in challenging the order of the Joint Collector dated 24.1.2005. Learned Counsel for the petitioner on 27.4.2006 made a submission that the

copy of the order passed by the Joint Collector was received by the petitioner on 27.6.2005 and, therefore, this Court adjourned the matter to enable the learned Counsel for the petitioner to produce proof for such contention. On 19.6.2006, learned Counsel for the petitioner produced a registered postal cover addressed to two lawyers of Visakhapatnam. As no evidence was produced before this Court as to whether those lawyers appeared for the petitioners before the Joint Collector or not, learned Assistant Government Pleader for Revenue (General) was directed to produce the record and also to file counter affidavit. The record was produced on 27.6.2006 and counter affidavit was also filed.

In the counter affidavit filed by the MRO, the writ petition is opposed raising the following contentions. Madhurawada village is a notified village under the provisions of A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (the Act, for brevity). The land admeasuring Acs.1366.40 in survey No.336 of the said village is classified and registered as Hill Poramboke. The father of the petitioner Pothina Adiyya filed an application for issue of pattadar passbook and certified copies of 10(1) statement and fair adangal. The MRO rejected the request of the petitioner's father, as the land is classified and registered as Hill Poramboke and the record produced do not tally with the records maintained by the office of the MRO. The Joint Collector, revisional authority, verified the record and came to the conclusion that the land revenue receipts produced by the petitioner cannot be accepted, as there was no post of Village Head Munsif for Madhurawada and that the signature on the Xerox copy of the D-Form patta is not tallying with the signature of the then Tahsildar. It is also stated that the provisions of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (RoR Act, for brevity) have no application to the Government land and, therefore, pattadar passbook cannot be issued.

This Court has perused the file. The same would show that the order of the Joint Collector bearing Rc.No.1376/2004, dated 24.1.2005 was dispatched on 31.1.2005 itself. The same was addressed to M/s.S.Bhaskar and V.N.Murthy, Advocates, and as per the postal stamp, the same was served on 01.2.2005. Therefore, the statement made by the learned Counsel for the petitioner that the copy of the impugned order was served on the petitioner on 27.6.2005 stands disproved. This Court, therefore, holds that the writ petition is barred by limitation. Secondly, the submission of the learned Counsel for the petitioner that MRO has not considered the documents produced by the petitioner and

that the Joint Collector has ignored the documentary evidence produced by the petitioner cannot be accepted. Apart from perusing the impugned order, this Court has perused the original files from the office of the MRO as well as the District Collector relevant to the case on hand. The Revenue Authorities have considered all the aspects of the matter, verified all the records and came to the conclusion that the land in survey No.336 is classified and registered as Hill Poramboke, which is a Government poramboke land. When the land is registered as Government land, under Section 12 of RoR Act, record of rights and pattadar passbooks cannot be issued. Nextly, the petitioner relied on the patta granted to his father and the revenue receipts issued by Madhurawada Village Head Munsif. These were found to be fake ones by the Joint Collector by giving valid reasons. It is a question of fact and the finding given by the ultimate quasi-judicial authority on the question of fact does not warrant any interference. There is no perversity in such findings.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

August , 2006
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